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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,719	03/08/2001	Scott S. Ingraham	2043.207US1	7887
49845 7590 07/22/2009 SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER FELTEN, DANIEL S				
ART UNIT 3696		PAPER NUMBER		
NOTIFICATION DATE 07/22/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

# Office Action Summary

**Application No.**

09/802,719

**Applicant(s)**

INGRAHAM ET AL

**Examiner**

DANIEL S. FELTEN

**Art Unit**

3696

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5, 8-12, 14-16, 18-27, 29, 30, 32-40, 42, 43 and 45-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8-12, 14-16, 18-27, 29, 30, 32-40, 42, 43, 45-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed May 11, 2009 have been fully considered but they are not persuasive. The applicant asserts that as amended, each of the independent claims 1, 20 and 34 recite, in part, "receiving availability data of property" and "based on the availability data, communicating a subset of the plurality of property profiles to the requesting party". The Applicant further asserts that Fraser, nor Hughes, nor Tozzoli contain any mention of these elements or any functional equivalent [see Applicant's response, page 12]. The Examiner disagrees. It is respectfully maintained that references are read in what they suggest as a combination rather than their specific disclosure. In this case it is maintained that one of ordinary skill in the art would have considered the video real estate information or Hughes to be based upon a sub-list of homes and other properties that were available on the market and based upon certain criteria. For example, as mentioned in the background of Hughes potential purchasers of real estate begin their search for a new home by describing to the real estate agent some criteria of the property the potential purchaser is looking for (see column 1, lines 13+). It is being maintained that Hughes is a video/visual extension of the computer listing service which matches property buyers with properties sellers based upon a sub-list of available properties (which the examiner interprets "available" as properties for sale or for lease) and buyer criteria. For the aforementioned reasons the rejections are maintained.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 8-12, 14-16, 18-27, 29, 30, 32-40, 42, 43, 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over FRASER (US 5,664,115) in view of HUGHES (US 5,736,977) and TOZZOLI et al (US 5,717,989).

FRASER discloses a computer implemented method receiving at a computer a plurality of property profiles over a computer network at a transaction center from a responsible party being responsible for disposition of a property associated with a property profile of the plurality of property profiles and receiving availability data of the property (see FRASER, Abstract, column 4, lines 17-23; and column 5, lines 11-15; and see response to arguments ), as in claims 1, 20 & 34

--matching the transaction request with the property profiles in accordance with the property information (S 107)(see FRASER, column 6, lines 40-48), as in claims 1, 20 & 34

--a machine readable medium having stored thereon instructions which when executed by a processor cause the machine to perform operations (see FRASER, column 4, lines 61-67), as in claim 20

FRASER discloses receiving a transaction request from at least one requesting party over the

computer network at the transaction center, the transaction request including property information regarding at least one desired property aspect (see FRASER, column 7, lines 34-37), as in claims 1, 20 & 34

FRASER fails to disclose, however, that the requesting party is a prospective renter, and the receiving of the transaction request includes providing a sequence of maps to prompt the requesting party select at least one desired geographical location.

HUGHES discloses that a requesting party is a prospective renter, and the receiving of the transaction request includes providing a sequence of maps to prompt the requesting party select at least one desired geographical location (see column 2, lines 10-38 and column 5, lines 8-25). It would have been obvious to integrate prospective renters and receiving transaction requests to include provide sequence of maps from HUGHES into the invention of FRASER because of the fact that it would be obvious for FRASER to recognize that the sequence of maps would allow potential buyers ( and potential renters) find/locate properties based upon their preferred criteria.

FRASER fails to disclose, providing the transaction request to the responsible parties of those properties that match the transaction request.

TOZZOLI discloses a matching system where a buyer provides terms of a transaction to selected sellers based upon certain criteria (see Tozzoli, column 7, lines 11-33). It would have been obvious for an artisan at the time the invention to modify the matching system of FRASER to provide the transaction request to the responsible parties as disclosed in the matching system of TOZZOLI to allow sellers to accept, reject and/or change criteria so as to further matching

and/or negotiations between buyer and sellers. Thus such a modification would be an obvious expedient well within the scope of the art.

--a bus (6), (see column 4, lines 6+)

--a storage device coupled to the bus (see column 4, lines 6+);

--a processor (CPU) coupled to the bus, the processor to execute software to cause the computer to perform operations comprising (see fig. 2, column 4, lines 43-67)

FRASER fails to disclose, as in claims 5 and 22, an offer received from at least one of the responsible parties to at least one of the requesting parties. Tozzoli discloses that the responsible parties are able to make offers to the requesting parties (see Tozzoli, column 7, lines 26-33). It would have been obvious to modify Fraser to allow an offer to be submitted from the responsible parties to the requesting parties, as described in Tozzoli, to further provide the Fraser invention with the ability for sellers to communicate and negotiate better terms with potential buyers. Thus such a modification would be considered an obvious expedient well within the ordinary skill of the art.

FRASER discloses, as in claims 8 and 23, a ranking based upon a plurality of criteria (see FRASER, "property listing", Abstract), but fails to disclose that the ranking is part of an offer. TOZZOLI discloses ranking based upon an offer and certain criteria/terms (see Tozzoli, column 7, lines 10-33). It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Fraser to provide ranking of criteria based upon offers so as to communicate to sellers how much the buyer would be willing to pay for a particular property having certain

features From normal business practice between buyers and sellers in a negotiation process, one would expect buyers to favor certain features over others. Thus such modification would be an obvious expedient well within the ordinary skill in the art.

--receiving at least one unit information (see Fraser, column, lines ), *as in claims 18, 32 and 45*

--wherein the matching engine is performed by a matching engine (S 107), (see Fraser, fig. 5B, column 6, lines 41-48), *as in claim 35*

--wherein the matching engine comprises of a plurality of software instructions, (see Fraser, fig. 3, column 5, lines 1-15) *as in claim 36*

FRASER fails to disclose, *as in claims 9, 24 and 37*, providing acceptance received from one of the requesting parties to one of the responsible parties.

TOZZOLI discloses providing acceptance received from one of the requesting parties to one of the responsible parties, (see column 7, lines 26-33).

It would have been obvious for an artisan of ordinary skill in the art at the time of the invention was made to modify Fraser to provide an acceptance received from one of the requesting parties to one of the responsible parties to allow further communication and interaction/ interactivity between the buyer and the seller. Thus such a modification would further provide an indication of properties that would be filter or weeded out of the system(see column 10, lines 1-24). Such a modification would be an obvious expedient well within the ordinary skill of the art.

7.

Claims 14, 19, 29, 33, 41, 42 and 46 are rejected under 35 U.S.C. 103(a) as being

unpatentable over FRASER as modified by HUGHES and TOZZOLI et al (US 5,717,989) as applied to claim 1 in further view of BROERMAN.

--Fraser as modified by Hughes and Tozzoli discloses billing the responsible party a listing fee, but fails to disclose billing the responsible parties a success fee. Broerman (US 6,594,633) teaches a success fee (see column 7, lines 21-25; also see "sales verification", lines 54+), as in claims 14, 19, 29, 33, 42, 46. The sales verification, as taught in Broerman would have been an obvious extension to the teaching of Fraser as modified by Hughes and Tozzoli in as much as one of ordinary skill in the art would seek to provide a verification of sale so as to indicate that a match and/or transaction had transpired.

--Fraser as modified by Hughes and Tozzoli fails to disclose providing a property visit request received from one of the requesting parties. Broerman discloses providing a property visit request (see column, 8, lines 9-19; and column 8, lines 31-38), as in claims 10, 25 and 38.

In buying and/or renting a property it is customary for the buyer to ask the seller/rentor to inspect the property before making a final decision on whether not to buy and/or actually rent the property. This concept is called, "Due diligence." In conventional business practice, it is conventional for a buyer/renter to perform due diligence by requesting a visit of the property to ensure that the property is what the seller/rentor has advertised the property to be and that the criteria of the buyer is met.

Thus it is submitted that requesting a visit of the property would be an obvious extension to the teachings of Fraser as modified by Hughes and Tozzoli to ensure criteria of the buyer is met.

--Fraser as modified by Hughes and Tozzoli discloses a notification receiving lease execution notification from at least one of the responsible parties, (see FRASER column 8, lines 8-19; and



also column 8, lines 31-38), as in claims 12, 28 and 41,

--receiving sale execution notification from at least one of the responsible parties, (see FRASER column 8, lines 8-19; and also column 8, lines 31-38), as in claims 13, 28, 41,

--providing a sequence of maps to prompt the requesting party to select at least one desired geographical location, (see FRASER column 8, lines 20+), as in claims 17, 31 and 44  
8.

Claims 2, 11, 21, 26 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (US 5,664,115) as modified by Hughes, Tozzoli et al and Broerman as applied to claim 1 in further view of over in view of Walker et al (US 5,884,272)

Fraser as modified by Hughes, Tozzoli and Broerman discloses hiding parts of the criteria used to filter buyers and sellers during the negotiation/filtering process, but fails to disclose anonymous communications such that an identity of the requesting party is hidden from the responsible party, as in claims 2, 11, 21, 26 and 39.

Walker discloses a system for establishing anonymous communications between parties ( see Walker, Abstract, column 4, lines 19-27).

Walker discusses several motivations why one of ordinary skill in the art would seek anonymous communications (see Walker, column 1, line 36 to column 4, line 13; and column 4, lines 16 to column 6, line 23)

The anonymous features disclosed in Walker would have been obvious to extensions of the teachings of Fraser as modified by Hughes, Tozzoli and Broerman to ensure the privacy of pertinent information associated with either the buyer and/or the seller. Thus such a modification would allow both parties to feel comfortable with the transaction. Thus such a modification

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would be considered an obvious expedient well within the ordinary skill in the art.

9.

Claims 15, 16, 30 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (US 5,664,115) as modified by Hughes, Tozzoli et al and Broerman in further view of Eggleston et al ( US 6,061,660)

Fraser as modified by Tozzoli et al and Broerman fails to disclose receiving a request for a promotional reward from at least one of the requesting parties, as in claims 15, 16, 30, and 43

*Eggleston disclose a method and system for providing programs over the Internet to offer incentive programs to customers (see Eggleston Abstract). It would obvious to combine Broerman and Eggleston to promote usage of the Fraser as modified by Tozzoli et al and Broerman over the Internet as well as increase sales as enunciated in the background of Eggleston (see Eggleston column 1, lines 27+). Thus such a modification would increase the amount of use of the Broerman invention an thus be an obvious expedient to one of ordinary skill in the art.*

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL S. FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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